

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:22-cv-00146-MOC-DSC**

LISA BENZING,)	
)	
Plaintiff,)	
)	
vs.)	
)	
USAA OFFICER SEVERANCE)	
PLAN,)	
)	
Defendant.)	

DEFENDANT’S MOTION FOR SUMMARY JUDGMENT

Defendant USAA Officer Severance Plan (“Plan”) hereby moves under Rule 56 of the Federal Rules of Civil Procedure for summary judgment dismissing the Complaint (DE1), in its entirety, with prejudice. In support of this Motion, the Plan states:

1. Plaintiff was employed by United Services Automobile Association (“USAA”) for approximately seven weeks, at the end of which USAA terminated her employment.
2. Plaintiff thereafter applied for severance benefits under the Plan pursuant to the Plan’s administrative procedures.
3. Plaintiff’s application for benefits was denied. Thereafter, Plaintiff filed the Complaint in this action, seeking: (1) benefits under the Plan pursuant to the Employee Retirement Income Security Act, 29 U.S.C. §1001 et seq. (“ERISA”), which governs the Plan, specifically ERISA §502(a)(1)(B), 29 U.S.C. §1132(a)(1)(B) (First Claim for Relief); and (2) an award of attorney’s fees and costs under ERISA §502(g)(1), 29 U.S.C. §1132(g)(1) (Second Claim for Relief).

4. The Plan grants the Plan Administrator discretionary authority to interpret the Plan, apply the Plan, and determine whether participants in the Plan, such as Plaintiff, are entitled to an award of benefits under the Plan.

5. As a result of the Plan's grant of discretionary authority to the Plan Administrator, the Plan Administrator's decisions denying benefits to Plan participants are judicially reviewed under the highly deferential abuse of discretion standard.

6. In the exercise of the discretionary authority granted by the Plan, the Plan Administrator determined that Plaintiff was terminated from her employment with USAA "due to the failure to meet standards of job performance," which under the terms of the Plan disqualified Plaintiff from the award of benefits. The Plan Administrator therefore denied Plaintiff's application for benefits.

7. Plaintiff cannot establish that the Plan Administrator abused her discretion in denying Plaintiff Plan benefits based on the documents that comprise the actual administrative record.

8. Plaintiff's claim for benefits in this Court under ERISA §502(a)(1)(B) therefore fails as a matter of law and the Court should grant the Plan summary judgment on the Complaint's First Claim for Relief.

9. Because Plaintiff's claim for benefits fails, her claim for attorney's fees and costs under ERISA §502(g)(1) also fails, because an award of attorney's fees and costs is contingent on the success of Plaintiff's claim for benefits. The Court should therefore grant the Plan summary judgment on the Complaint's Second Claim for Relief.

10. Since both of the Complaint's Claims for Relief fail on the undisputed facts as a matter of law, in granting summary judgment to the Plan the Court should dismiss the Complaint, in its entirety, with prejudice.

WHEREFORE, for the reasons set forth above and discussed more fully in the accompanying Memorandum in Support of Defendant's Motion for Summary Judgment, Defendant USAA Officer Severance Plan respectfully requests that the Court enter an Order granting the Plan summary judgment, dismissing Plaintiff's Complaint, in its entirety, with prejudice, and granting any other or further relief that this Court may deem just, proper, and appropriate.

Filed November 12, 2022.

Respectfully submitted,

By: /s/ Kevin J. Dalton
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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 3:22-cv-00146-MOC-DSC**

LISA BENZING,)	
)	
Plaintiff,)	
v.)	
)	
)	
USAA OFFICER SEVERANCE PLAN,)	
)	
Defendant.)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2022, **DEFENDANT’S MOTION FOR SUMMARY JUDGMENT** was electronically filed with the Clerk of Court using the CM/ECF system, which will send electronic notice to Plaintiff’s counsel, Bryan L. Tyson and Hannah Auckland, via email to bryan@yourncattorney.com and hauckland@yourncattorney.com.

Respectfully submitted,

/s/ Kevin J. Dalton

Kevin J. Dalton
FISHER & PHILLIPS LLP